



SIGNED this 30th day of March, 2012

Shelley D. Rucker  
Shelley D. Rucker  
UNITED STATES BANKRUPTCY JUDGE

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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TENNESSEE  
SOUTHERN DIVISION

In re:

STEVE A. McKENZIE  
a/k/a Toby McKenzie

No. 08-16378  
Chapter 7

Debtor;

GRANT, KONVALINKA & HARRISON, P.C.,

Plaintiff,

v.

Adversary Proceeding  
No. 11-1118

RICHARD L. BANKS,  
RICHARD BANKS & ASSOC., P.C.,  
C. KENNETH STILL, and  
STEVE A. MCKENZIE

Defendants.

## MEMORANDUM

Defendant C. Kenneth Still, trustee (“Trustee”) moves this court to dismiss the complaint of Plaintiff Grant, Konvalinka & Harrison, P.C. (“GKH” or “Plaintiff”) in this adversary proceeding. [Doc. No. 17].<sup>1</sup> Plaintiff opposes the motion of the Trustee. [Doc. No. 21].

The court has reviewed the briefing filed by the parties, the pleadings at issue, and the applicable law and makes the following findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052.

The record reveals that the Plaintiff filed its complaint (“Complaint”) on August 5, 2011. [Doc. No. 1]. On the same day the Plaintiff filed an identical lawsuit in Hamilton County Circuit Court (“HC Malpractice M/P Lawsuit”) with the exception of changes necessary to reflect it was filed in a state court. *See* [Adv. Proc. No. 11-1121, Doc. No. 1-2]. The Trustee subsequently removed the HC Malpractice M/P Lawsuit to this court. [Adv. Proc. No. 11-1121, Doc. No. 1]. The Trustee also filed a motion to dismiss in the HC Malpractice M/P Lawsuit. [Adv. Proc. No. 11-1121, Doc. No. 5]. GKH has moved to remand and/or abstain and/or consolidate this adversary proceeding with Adversary Proceeding Number 11-1121. [Adv. Proc. No. 11-1121, Doc. No. 3].

This court has granted the Trustee’s motion to dismiss the HC Malpractice M/P Lawsuit. As GKH’s claims against the Trustee in this adversary proceeding are identical to its claims against the Trustee in the HC Malpractice M/P Lawsuit, this court will also GRANT the Trustee’s motion to dismiss the claims against him in this adversary proceeding. Rather than repeating the court’s analysis regarding GKH’s identical claims against the Trustee from the HC

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<sup>1</sup> All citations to docket entries pertain to docket entries for Adversary Proceeding 11-1118, unless otherwise noted.

Malpractice M/P Lawsuit in this proceeding, the court hereby incorporates its memorandum pertaining to the Trustee's motion to dismiss, including its findings of fact and conclusions of law from Adversary Proceeding No. 11-1121, into this memorandum. Therefore, for the reasons addressed in the court's memorandum granting the Trustee's motion to dismiss Adversary Proceeding No. 11-1121, the court will GRANT the Trustee's motion to dismiss GKH's claims against him in this adversary proceeding.

A separate order will enter.

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